

Paul S. Gao

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

THERESA H. LUKE,)
Plaintiff,)
v.) Civil No. 12-11903-PBS
U.S. DEPARTMENT OF JUSTICE,)
Defendant.)

I adopt the report and
recommendations without opinion
and dismiss the action.

REPORT AND RECOMMENDATION ON
DEFENDANT'S MOTION TO DISMISS

May 17, 2013

SOROKIN, C.M.J.

The plaintiff, Theresa Luke, sued the Department of Justice (“DOJ”) under 5 U.S.C. § 552(a)(4)(B) after her Freedom of Information Act (“FOIA”) request for access to certain United States Marshals Service records was administratively denied. See Doc. Nos. 1, 1-1. The DOJ has moved to dismiss the complaint for failure to state a claim or, in the alternative, for summary judgment. Doc. No. 14. Luke opposed the motion, Doc. Nos. 16, 17, and requested a hearing, Doc. No. 18. The Court held a hearing on May 16, 2013, at which the plaintiff and counsel for the DOJ appeared. Because the information Luke seeks is exempt from the FOIA, I recommend that the DOJ’s motion to dismiss be ALLOWED.¹

¹It is not necessary to consider the declaration submitted by the DOJ with its motion, as the DOJ is entitled to judgment as a matter of law based on the facts as Luke has presented them in her complaint. Therefore, the Court need not treat the DOJ’s motion as one for summary judgment.